

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

In Re:

EZEQUIEL NIEVES ORTIZ  
ZAIDA DAVILA HERNANDEZ

Debtor(s)

DORAL BANK

Movant

vs.

EZEQUIEL NIEVES ORTIZ  
ZAIDA DAVILA HERNANDEZ

Respondents

Case No. 09-04086 SEK

Chapter 11

Index

☒ of acts against property under  
§362(d)(1) "FOR CAUSE"

**MOTION FOR RELIEF FROM STAY**

TO THE HONORABLE COURT:

COMES NOW DORAL BANK ("Doral"), through its undersigned counsel, and very respectfully alleges, states and prays:

1. Jurisdiction is granted by 28 U.S.C. §1334 and by 28 U.S.C. §157, and this is an action pursuant to 11 U.S.C. §362 (d)(1).
2. On May 20, 2009, Debtor(s) filed a petition for relief under Chapter 13 of the Bankruptcy Code and was converted on a Chapter 11 on January 20, 2010.
3. Doral is the holder in due course of a Mortgage Note in the principal sum of \$215,000.00 bearing interest at 5.875% and due date on April 1, 2034.
4. On July 15, 2009, Doral filed a secured claim, with a proof of lien, in the amount of \$231,828.77 for loan number 5407, with pre petition arrears of \$27,291.87 encumbering Debtor's property.
5. Since the filing date, Debtor(s) account has accumulated ***post petition arrears of \$25,655.26***, including late charges and legal fees, as stated in the attached

verified statement entitling this Honorable Court to grant Doral relief from the automatic stay, pursuant to 11 U.S.C. §362 (d)(1).

6. As show from the attached certification, Debtor(s) is/are not eligible for the protections of the Servicemen's Civil Relief Act of 2003.

WHEREFORE, it is respectfully requested that this Honorable Court enter an order granting Doral relief from the automatic stay.

HEREBY CERTIFY that a copy of the *Motion Requesting Relief from the Automatic Stay* was electronically filed by Movant, Doral, using the CM/ECF System, which will send a notification to the U S Trustee and to the debtor(s) attorney. In addition, a copy of the *Motion Requesting Relief from the Automatic Stay* was sent by Movant, Doral, to the debtor(s) at the address of record.

In San Juan, Puerto Rico on the 30<sup>st</sup> day of November, 2010.

SERGIO A. RAMIREZ DE ARELLANO LAW OFFICES  
Attorney for DORAL BANK  
Banco Popular Center  
11<sup>th</sup> Floor Suite 1133  
209 Muñoz Rivera Avenue  
San Juan, PR 00918-1009  
Tels: (787) 765-2988  
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/S/ Sergio Ramirez de Arellano  
USDC PR 126804

# doralbank

## REQUEST FOR LIFT OF STAY

( MOTION UNDER 11 USC 362 )

To Bufete: SERGIO A. RAMIREZ DE ARELLANO LAW OFFICE

Loan Number: \*\*\*\*\*5407 (1RA)  
Debtor: ZAIDA DAVILA HERNANDEZ  
Debtor: \_\_\_\_\_  
BKR # 09-04086 CHPT. 11 DATE FILED: May 20, 2009  
Plan confirmed? YES NO  
Payments due 36 Pre-Pet 18 Post-Pet 18 (6/09 - 11/10)

### Post-Petition arrears:

<u>18</u> months at	<u>\$1,339.48</u>	<u>\$24,110.64</u>
<u>18</u> late charges at	<u>\$63.59</u>	<u>\$1,144.62</u>
Attorney Fees (M-362)		<u>\$400.00</u>
Pending L/C		<u>\$0.00</u>
Suspense Bal		<u>\$0.00</u>
Attorney Fees Foreclosure		<u>\$0.00</u>
DUE DATE	<u>12/1/2007</u>	
PRINCIPAL BALANCE	<u>\$204,536.90</u>	<b>TOTAL</b> <u>\$25,655.26</u>

- \* All installment payments must be made up to the current month, including legal fees and late charges.
- \* Toda reinstalación efectuada debe incluir mes en curso, incluyendo gastos legales y cargos por demora.
- \* **TODOS PAGO DEBE SER EFECTUADO EN EFECTIVO, CHEQUE DE GERENTE O MONEY ORDER\***

### Verified Declaration

I, the undersigned, declare under penalty of perjury that the amounts claimed by Movant in the foregoing Request for Lift of Stay, represents accurately the information kept in accounting books and records kept by Movant in the ordinary course of business. I further declare under penalty of perjury that I have read the foregoing Motion from the Automatic Stay and that the facts alleged are true and correct to the best of my knowledge.

Name: MICHAEL GARCIA  
GROUP LEADER

NAYELI DIAZ  
SUPERVISOR

  
S/ NAYELI DIAZ FEBLES

This Req. For Lift of Stay was prepared This 26 day of November of 2010

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

In re:  
ZAIDA DAVILA HERNANDEZ

0 CASE NO. 09-04086  
CHAPTER: 11

Debtor(s)

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Doral Bank  
Movant

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SWORN STATEMENT UNDER PENALTY OF PERJURY

The undersigned is an authorized officer Doral Bank, hereinafter referred to as "DB".

The undersigned represents the interests of DB as a secured creditor and holder in due course of the mortgage note and mortgage deed mentioned in the motion for relief from stay under 11 U.S.C 362 of the captioned case.

To the best of our information and belief the debtors are not currently serving on active duty in the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps and Coast Guard) nor in the National Guard, Air National Guard, the commissioned corps of the National Oceanic and Atmospheric Administration nor in the commissioned corps of the Public Health Service.

The information included in DB's loan origination file, the foreclosure and/or collection file and in DB's computer system was reviewed and none disclosed that the debtors are currently serving on active duty in the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps and Coast Guard) nor in the National Guard, Air National Guard, the commissioned corps of the National Oceanic and Atmospheric Administration nor in the commissioned corps of the Public Health Service.

As per the certification issued by the Department of Defense Manpower Data Center (which is attached hereto) the debtors are not in active duty in the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps and Coast Guard) nor in the National Guard, Air National Guard, the commissioned corps of the National Oceanic and Atmospheric Administration nor in the commissioned corps of the Public Health Service.

Upon review of the pertinent records and documents I declare under penalty of perjury as permitted under section 1746 of title 28, United States Code that the foregoing is true and correct.

Executed in San Juan, Puerto Rico this 23 day November of 2010.

S/NAYELI DIAZ  
NAYELI DIAZ  
Supervisor

Department of Defense Manpower Data Center

Nov-30-2010 13:58:07



Military Status Report  
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
NIEVES ORTIZ	EZEQUIEL	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

*Mary M. Snavely-Dixon*

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

***More information on "Active Duty Status"***

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

***Coverage Under the SCRA is Broader in Some Cases***

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.  
Report ID:BRLJK1N4T5

Request for Military Status

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Department of Defense Manpower Data Center

Nov-29-2010 08:15:08



Military Status Report  
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
DAVILA	ZAIDA	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

*Mary M. Snavely-Dixon*

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